



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/102,016	06/22/1998	SAMUEL H. CHRISTIE IV	03384.0236-0	1315

27820 7590 11/25/2003

WITHROW & TERRANOVA, P.L.L.C.  
P.O. BOX 1287  
CARY, NC 27512

EXAMINER

BOAKYE, ALEXANDER O

ART UNIT

PAPER NUMBER

2667

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/102,016

Applicant(s)

CHRISTIE, SAMUEL H.

Examiner

Alexander Boakye

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/21/03.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 61-120 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-120 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2666

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims, 61, 70, 76, 85, 91, 100, 106 and 115 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 8, 11, 15, 18, 22 and 25 of U.S. Patent No. 6,324,265. Although the conflicting claims are not identical, they are not patentably distinct from each other because, the claims of the instant application

Art Unit: 2666

contain the same limitations as the patented claims except that the instant application claims packet based form. Therefore, it would have been obvious to one of ordinary skill in the art to combine internet as taught by White in Fig. 12 with the instant application in order to provide internet services to users, thus enhancing performance and efficiency.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 61, 62, 63, 64, 66, 68, 69, 70, 71, 73, 74, 75, 77, 78, 79, 81, 83, 84, 85, 86, 88, 89, 90-94, 96, 98, 99, 100, 103, 104, 105, 107, 108, and 109, are rejected under 35 U.S.C. 102(e) as being anticipated by White et al. (US Patent # 6,243,374).

Art Unit: 2666

Regarding claims 61, 70, 73, 76, 85, 88, 91 and 100 White discloses an apparatus for receiving treatments corresponding to a calling party's unsuccessful attempt to complete a communications session, comprising: means for attempting to initiate a communications session from a calling party's communication device (column 21, lines 58-61; W, Fig. 12 is the calling party's communications device) to a called party's communication device (column 21, lines 58-61; Z, Fig. 12 is the called party's communications device) across a packet based network (106, Fig. 12); means for receiving indication that the attempted communication session was not completed (column 21, lines 61-64).

Furthermore, White teaches receiving means (Fig. 12) for receiving at the calling party's communications device (W, Fig. 12) a packet based message (106, Fig. 12) providing an indication of a treatment (column 21, line 64-column 22, lines 1-7) corresponding to the attempted communications session, wherein the message is presented to the calling party through the calling party's communications device (W, Fig. 12).

Regarding claims 62, 63, 64, 71, 77, 78, 79 and 86, White teaches that the receiving means (Fig. 12) includes means for receiving a cause value (the claimed cause value is inherent in the message) and address of the associated message (column 3, lines 36-49) corresponding to the attempted communications session.

Regarding claims 66 and 81, White teaches that the receiving means includes means for receiving the treatment with the message (column 21, line 64-column 22, lines 1-7).

Art Unit: 2666

Regarding claims 68, 74, 83, 89, 90, 98 and 104, White teaches that the receiving means includes means for receiving the indication of a particular version of the treatment (column 21, line 64-column 22, lines 1-7).

Regarding claims 69, 84, 75, 99 and 105, White teaches that the receiving means includes means for receiving a multimedia version of the treatment (column 22, lines 3-12)

Regarding claims 92, 93, 94, 101, 107, 108 and 109 White teaches that the second receiving step includes means for receiving a cause value corresponding to call party identifier and an address of the associated message ( column 4, lines 13-28) corresponding to the attempted communication session.

Regarding claims 96, and 103, White teaches the that the second receiving step includes the step of receiving the treatment with the message (column 21, Lines 58-67).

***Claim Rejections - 35 U.S.C. § 103***

3. Claims 65, 67, 69, 72, 75, 80, 82, 84, 87, 95, 97, 99, 102, 105, 110 and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (US Patent # 6,243,374) in view of Creswell et al. (US Patent # 5,384,831 ).

Regarding claims 65, 72, 80, 87, 95, 102, 110 and 117, White teaches that the receiving means ( Fig. 12 ) includes means for receiving an address for accessing the message (column 4, lines 13-28 ). White fails to disclose an alternate language. However, Creswell discloses an

Art Unit: 2666

alternate language (column 22, line 67- column 23, lines 1-15). One of ordinary skill in the art would have been motivated to incorporate an alternate language such as the one taught by Creswell in the communication network of White in order to improve performance. Therefore, it would have been obvious to one skilled in the art to incorporate Creswell's adjunct switch into the communication network of white with the motivation being that it provides capability for the system to operate in different languages.

Regarding claims 67, 82 and 97, White teaches that the receiving means (Fig. 12 ) includes means for receiving the treatment (column 21, line 64-column 22, lines 1-7 ) and for caching the treatment for later retrieval(column 20, lines 62-64).

Regarding claims 69, 84 , 75, 99 and 105, White teaches that the receiving means includes means for receiving a multimedia version of the treatment (column 22, lines 3-12 ).

4. Claims 106, 107, 108, 109, 111, 112, 113, 114, 116, 118 119 and 120 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al.(US Patent # 6,243,374).

Regarding claim 106, White discloses attempting to initiate a communications session from a calling party's communications device to a called party's communications device (column 21, lines 58-61; W, Fig. 12 is the calling party's communications device ); receiving on a packet based( 106, Fig. 12) indication that the attempted communications session was not completed (column 21, lines 61-64); receiving at the calling party's communications device (W, Fig. 12 ) a message providing an indication of a treatment (column 21, line 64- column 22, lines 1-7) corresponding to the attempted communications session, wherein the message is presented to the

Art Unit: 2666

calling party( the calling party is located at W, Fig. 12). White does not explicitly disclose a computer readable medium containing instructions for controlling a computer system. However, one of ordinary skill in the art would have been motivated to incorporate a processor in the communication network of Fig. 12 in order to provide computer program product such as hard disk for data storage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate a processor into the communication network of Fig. 12 with the motivation being that it provides capability for the system to execute programs stored in the computer memory.

Regarding claim 107, White discloses that the second receiving step includes the step of receiving a cause value and address of an associated message corresponding to the attempted communications session (column 3, lines 36-49).

Regarding claim 108, White discloses that the step of receiving the cause value ( the claimed cause value is inherent in the message) includes the step of obtaining the message from the calling party's communications device (W, Fig. 12).

Regarding claim 109, White discloses that the step of receiving the cause value (the claimed cause value is inherent in the message) includes the step of obtaining the message using the address(column 7, lines 21-27).

Regarding claim 111, White teaches that the second receiving step includes the step of receiving the treatment with the message (column 21, line 58-column 22, lines 1-7 ).

Art Unit: 2666

Regarding claims 112, White teaches that the receiving means (Fig. 12 ) includes means for receiving the treatment (column 21, line 64-column 22, lines 1-7 ) and for caching the treatment for later retrieval(column 20, lines 62-64).

Regarding claims 113, White teaches that the receiving means includes means for receiving the indication of a particular version of the treatment (column 21, line 64-column 22, lines 1-7).

Regarding claims 114 and 120, White teaches that the receiving means includes means for receiving a multimedia version of the treatment (column 22, lines 3-12 ).

Regarding claim 116, White discloses that the second providing step includes the step of providing a cause value (the cause value is inherent in the message ) and an address of an associated message (column 8, line 66-column 9, lines 1-2) corresponding to the attempted communications session.

Regarding claim 118, White discloses that the second providing step includes the step of providing the treatment with the message (column 21, lines 58-67).

Regarding claim 119, White teaches that the receiving means includes means for receiving the indication of a particular version of the treatment (column 21, line 64-column 22, lines 1-7).

Art Unit: 2666

***Response to Arguments***

5. Applicant's arguments with respect to claims 61-120 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander Boakye whose telephone number is (703) 308-9554. The examiner can normally be reached on M-F from 8:30am to 6:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703)305-4378. The **fax number** is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305-4750.

Alexander Boakye

Patent Examiner

AB

11/15/03

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800  
11/19/03